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No. 90-314

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June 18, 1997

SUMMARY

In the *Further Notice of Proposed Rulemaking* adopted in this proceeding, the Commission has solicited comment on the most appropriate service area scheme, construction requirements and auction regulations to accommodate the interests of “small businesses,” as well as to enhance the growth of the narrowband PCS (“NPCS”) industry. As a small, woman-owned business holding two regional NPCS authorizations, Benbow PCS Ventures, Inc. (“Benbow”) has a direct and clear interest in the issues raised in the instant proceeding.

For the reasons set forth in the attached Comments, Benbow: (1) supports readjusting the existing NPCS service areas to create several additional regional license areas in lieu of a BTA licensing scheme; (2) opposes immediate channelizing and licensing of the one MHz of NPCS spectrum now held in reserve; (3) favors the existing NPCS aggregation limits, but suggests modification of the NPCS attribution limits; (4) opposes lifting the use restrictions currently applicable to paging response channels, and proposes a limited relaxation of the eligibility restrictions; (5) opposes adopting a substantial service alternative to satisfying specific coverage requirements; (6) supports modifying existing NPCS coverage benchmarks; and (7) supports making bidding credits and installment payments available to small businesses, but suggests certain modifications to the installment payment options.

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BEFORE THE
Federal Communications Commission
WASHINGTON, DC 20554

In the Matter of)	
)	
Amendment of the Commission's)	GEN Docket No. 90-314
Rules to Establish New Personal)	ET Docket No. 92-100
Communications)	
Services, Narrowband PCS)	
)	
Implementation of Section 309(j) of the)	PP Docket No. 93-253
Communications Act - Competitive)	
Bidding, Narrowband PCS)	

**COMMENTS OF
BENBOW PCS VENTURES, INC.**

Benbow PCS Ventures, Inc. ("Benbow"),¹ pursuant to Section 1.429(f) of the Commission's rules, hereby submits comments on the *Further Notice of Proposed Rulemaking* adopted in the above-referenced proceeding ("*Further Notice*").² In the

¹ Benbow is owned by June E. Walsh, the controlling majority shareholder, and The Westlink Company, a wholly-owned subsidiary of Arch Communications Group, Inc. Benbow owns Cal Autofone and Radio Electronics Products Corporation, two small paging companies providing traditional paging service in northern California. Benbow has also recently announced a proposed acquisition of three regional NPCS authorizations currently held by Page Call, Inc., which acquisition is subject to Commission approval. Ms. Walsh is a 25-year veteran of the paging industry, having operated paging systems in the northern California area prior to merging operations into Benbow.

² *In the Matter of Amendment of the Commission's Rules to Establish New Personal Communications Services, Narrowband PCS*, GEN Docket No. 90-314, ET Docket No. 92-100, *Implementation of Section 309(j) of the Communications Act - Competitive Bidding, Narrowband PCS*, PP Docket No. 93-253, Report and Order and Further Notice of Proposed Rulemaking, 62 Fed. Reg. 27507 (May 20, 1997).

Further Notice, the Commission solicits comment on numerous proposals for licensing and auctioning the remaining narrowband PCS spectrum (“NPCS”). As a small, woman-owned business holding two regional NPCS authorizations, Benbow has a direct and clear interest in the issues raised in the instant proceeding.

I. INTRODUCTION AND SUMMARY

In the *Further Notice*, the Commission continues to ponder the most appropriate service area scheme, construction requirements and auction regulations to accommodate the interests of “small businesses” as well as enhance the growth of the NPCS industry.

For the reasons set forth below, Benbow: (1) supports readjusting the existing NPCS service areas to create several additional regional license areas in lieu of a BTA licensing scheme; (2) opposes immediate channelizing and licensing of the one MHz of NPCS spectrum now held in reserve; (3) favors the existing NPCS aggregation limits, but suggests modification of the NPCS attribution limits; (4) opposes lifting the use restrictions currently applicable to paging response channels, and proposes a limited relaxation of the eligibility restrictions; (5) opposes adopting a substantial service alternative to satisfying specific coverage requirements; (6) supports modifying existing NPCS coverage benchmarks; and (7) supports making bidding credits and installment payments available to small businesses, but suggests certain modifications to the installment payment options.

II. BTA LICENSING SHOULD BE ELIMINATED IN FAVOR OF MORE REGIONAL LICENSES

In the *Further Notice*, the Commission has reiterated its prior proposal to eliminate the use of BTAs as license area designations. Instead, it proposes to reconfig-

ure service areas of the remaining unlicensed 2 MHz of narrowband PCS channels to create additional MTA, regional and nationwide service areas.³ Benbow generally agrees with the Commission's proposal, particularly to the extent that it will create additional regional licenses.

Benbow certainly agrees with the narrowband service providers who commented (in the earlier phases of this proceeding) that BTAs are too small to support the implementation of NPCS.⁴ BTA-sized service areas simply do not afford licensees the optimum combination of coverage, population density and reasonable capital costs necessary for new entrants like Benbow to be competitive in a market that is already highly competitive with regional service offerings.

On the other hand, as Benbow's success at auction demonstrates, the existing regional designations provide real opportunities for small businesses to acquire licenses without jeopardizing their financial wherewithal to construct a network and provide service.⁵ Unlike BTAs, regional areas are large enough to provide the economies of scale

³ *Further Notice* at ¶ 31.

⁴ See Comments of the Personal Communications Industry Association at 3 filed in response to *Implementation of Section 309(j) of The Communications Act — Competitive Bidding, Amendment of the Commission's Rules to Establish New Narrowband PCS*, Third Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, 10 FCC Rcd 175 (1994). See also Comments of American Paging at 3, n.2; Comments of AirTouch Paging at 13; Comments of PageMart at 9-11; Comments of Essence Communications at 8-9.

⁵ In establishing larger service areas as the norm, the Commission has often noted that its disaggregation and partitioning policies should allow smaller entrants that are not eager to serve large areas to nevertheless participate in emerging industries. The opposite problem is however true if the service areas are too small. Small businesses like Benbow, interested in providing a wider area of coverage, are faced with the often overwhelming complexity and transaction costs involved

that facilitate deployment of service. Further, establishing additional regional channels will help satisfy the significant demand to provide NPCS on a regional basis. For these reasons, Benbow fully supports the elimination of all BTA licensing, and the creation of three additional 50/12.5 kHz regional channel pairs and four additional 12.5 kHz unpaired regional channels.

The Commission has also asked whether it should use MEAs as designated by the U.S. Department of Commerce, or MTAs, as designated by Rand McNally and the Commission, in defining service boundaries. Benbow urges the Commission to continue using existing MTA boundaries for purposes of determining regional boundaries for NPCS licenses; the proposal to utilize MEAs for this purpose should be rejected.

The already-licensed regional areas were configured using MTA boundaries. Switching region boundaries to reflect the boundaries of an aggregation of MEAs at this juncture will cause significant inconsistencies between the existing regional NPCS boundaries and any additional licenses that are created in this proceeding. This will certainly frustrate the ability of existing regional licensees to acquire additional regional areas in order to create seamless wide-area coverage.

Using MEA borders for new regional boundaries could also create many unintended and anomalous situations involving an existing licensee's compliance with the Commission's NPCS spectrum aggregation limits. For example, if different boundaries are used, some existing licensees could end up violating the aggregation limits in areas in

in aggregating smaller service areas into a single, contiguous coverage area capable of supporting a viable messaging alternative. For this reason, creation of more regional licenses benefits small business entrants.

which an otherwise contiguous new region overlaps the old region. This is a clearly unacceptable result that would severely inhibit incumbents' ability to participate in an auction for new NPCS licenses. Further, inconsistent border areas may unnecessarily complicate attempts to resolve interference problems among neighboring, adjacent-channel licensees. Absent some compelling public policy rationale for switching to MEAs, the Commission should not change its boundary designations at this time.

III. THE COMMISSION SHOULD POSTPONE CHANNELIZING AND LICENSING THE ONE MHZ OF RESERVE SPECTRUM

In the *Further Notice*, the Commission has tentatively concluded that the one MHZ of spectrum that was reserved in the initial licensing scheme for NPCS should now be channelized and licensed. The Commission rationalizes that this action will advance the public interest because the Commission believes that access to additional spectrum will facilitate competition, open the market to new entrants and allow existing narrowband PCS licensees to expand their systems. In response, Benbow urges the Commission instead to pursue its initially intended course to auction off the remaining channels in the existing two MHZ of NPCS spectrum before taking action on the reserve spectrum.

When the Commission allocated the NPCS spectrum into three one-MHZ bands, it created the reserve because "the service proposals for narrowband PCS did not require the use of the entire narrowband PCS spectrum allocation."⁶ The Commission refrained

⁶ *Amendment of the Commission's Rules to Establish New Personal Communications Services*, First Report and Order, GEN Docket No. 90-314, 8 FCC Rcd 7162, 7165 ¶ 19 (1993), *on recon.*, Memorandum Opinion and Order, 9

from channelizing and licensing the remaining one-MHZ band to “allow [itself] flexibility in the future to channelize and license the remaining one megahertz of spectrum as this service develops.”⁷

Barely two years since the initial regional NPCS licenses (the last NPCS licenses to be auctioned) were granted, NPCS is still in its infancy; despite expenditures of tens of millions of dollars on research, development and infrastructure, the service proposals announced by existing licensees still do not require the use of the entire three MHz of NPCS spectrum. Thus, nothing has changed since the Commission’s initial action that would warrant a change in policy regarding the one-MHZ of reserve spectrum.

It is well known that NPCS licensees have been experiencing significant delays in obtaining commercially available equipment. Attempts by licensees like Benbow to construct systems and begin providing service have been interminably stalled because NPCS equipment and software are still in the testing and development phase. Thus, it remains unclear how much NPCS spectrum is needed for a viable NPCS system/service, and how that spectrum should be channelized.

Existing NPCS licensees may well need and want to use some part of the remaining one-MHZ band of NPCS spectrum for system expansion. But expansion needs can not reasonably be determined until existing, authorized systems are constructed and placed in operation. Channelizing and auctioning the reserve now would force existing NPCS licensees to divert resources needed to complete initial system and service

FCC Rcd 1309 (1993) (*PCS First Report and Order*).

⁷ *Id.*

development to the purchase of reserve spectrum that they may never need, simply to protect their existing investment against the possibility that some additional expansion spectrum may be critical.

By the same token, since existing licensees are facing critical demands on their capital, channelizing and licensing the reserve spectrum at this time could create more supply than there is a reasonable demand for NPCS spectrum. As a result, both the value and utility of the reserve spectrum may be affected in an auction, because many of the most likely participants simply cannot timely compete.⁸ This could also prompt entities that have no real use for the spectrum to acquire it simply because it is available and inexpensive, in the hope that they can warehouse it for a higher price at a later date — ironically, most likely to NPCS licensees whose needs have only then matured. This is the most nefarious result that an auction can have; rewarding the speculator at the expense of bona fide operators. Yet, the channelization of the reserve, before it is needed, is likely to have just such a result. If this occurs, the intended benefit of channelizing and licensing the reserve spectrum - - more competition from licensees of the new channels - - is never achieved.

The initial reasons for establishing the reserve have not changed since that decision was made in 1993; retaining reserve spectrum to satisfy yet unknown NPCS requirements remains appropriate today as well. Benbow therefore urges the Commission to delay channelizing and licensing the one-MHZ band of reserve spectrum

⁸ Many have speculated that this same problem resulted in much lower per MHz values for the D, E and F Block Broadband PCS licenses than had been bid for the earlier A, B, and C Block spectrum.

until such time as the NPCS industry has begun to mature. This will enable the industry and the Commission to better assess what the NPCS spectrum needs are and how the spectrum can be most efficiently used.

IV. THE COMMISSION SHOULD RETAIN EXISTING NPCS SPECTRUM AGGREGATION LIMITS, BUT SHOULD MODIFY THE NPCS ATTRIBUTION CRITERIA

In suggesting that it might open up additional spectrum for licensing, the Commission has also asked whether it should modify the spectrum aggregation limit imposed pursuant to Section 24.101 of the Commission's rules.⁹ Under that rule, a single NPCS licensee is limited to holding licenses for up to three 50 kHz channels, either paired or unpaired at any geographic point. Although licenses for paging response channels are not counted toward this three 50 kHz channel limit,¹⁰ the current rules restrict incumbent paging licensees to a maximum of two response channels within the same geographic area for the first two years after initial license grant.¹¹

As explained above, it is Benbow's position that the Commission should keep the remaining one-MHZ band of NPCS spectrum in reserve. Accordingly, Benbow recommends that the Commission retain the existing NPCS spectrum aggregation limit. The Commission's reasons for initially imposing the limit are still relevant -- restricting NPCS licensees to a total of 150 kHz of NPCS spectrum allows "PCS providers considerable flexibility to combine channels to accommodate specific service needs while also

⁹ *Further Notice* at ¶ 35.

¹⁰ Section 24.130(a) ("Licenses for paging response channels are not counted toward the multiple ownership restrictions of § 24.101.").

¹¹ *Id.*

ensuring competition in the provision of services.”¹² Given the lack of marketplace experience with the emerging NPCS services, there is no reason to change these limits. No party has yet suggested that the 150 kHz limit is restricting its ability to develop new systems and services; to the contrary, there are a number of active competitors attempting to break into the market throughout the country.

Benbow, however, does believe that a change should be made in the criteria used for determining compliance with this aggregation limit. Specifically, Benbow requests that the Commission modify the NPCS attribution criteria — which generally attribute a license to anyone holding at least 5percent of the licensee, directly or indirectly.¹³ Instead, the attribution test should be conformed to the limits used to determine broad-band licensees’ compliance with the Commercial Mobile Radio Service (“CMRS”) spectrum cap set forth in Section 20.6 of the rules.

The current NPCS attribution limits severely curtail the ability of small business NPCS providers like Benbow to attract much needed capital because the universe of investors interested in this industry sector becomes much more limited when a mere 5 percent (or 10 percent for institutional investors) interest becomes disqualifying as to any material investment in another entity with NPCS interests. Specifically, under the current NPCS attribution limits, an entity holding an ownership interest as small as 5 percent in

¹² *PCS First R&O* at ¶ 34.

¹³ Currently, Section 24.101 defines a NPCS licensee as : “(1) [a]ny institutional investor . . . with an ownership interest of ten or more percent in a [NPCS] license; and (2) [a]ny other person or entity with an ownership interest of five or more percent in a [NPCS] license.”

one NPCS licensee may not be able to invest in another NPCS licensee because to do so may cause one or both of the NPCS licensees to exceed the NPCS spectrum aggregation limit, e.g., where both licensees hold 50/50 MHz licenses.

When it developed the CMRS spectrum cap — which serves a virtually identical purpose to the NPCS spectrum limit, *i.e.*, increasing competition while retaining licensee flexibility —¹⁴ the Commission afforded broadband licensees far greater flexibility to invite investment by parties with much larger interests in the potential or likely CMRS competitors. Specifically, Section 20.6(d)(2) allows an entity to hold an ownership interest of up to 20 percent in a broadband licensee without being attributed with an interest in the broadband licensee. Of even greater importance to Benbow, if the broadband licensee is a small business, an entity can hold up to a 40 percent ownership interest in the licensee without being attributed with its licenses.¹⁵ For no readily apparent reason, the Commission is applying markedly different requirements to NPCS and broadband licensees despite the fact that they are both governed by Part 24 of the rules.

¹⁴ *Implementation of Sections 3(n) and 332 of The Communications Act, Regulatory Treatment of Mobile Services, Amendment of Part 90 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 900 MHz Frequency Band, Amendment of Parts 2 and 90 of the Commission's Rules to Provide for the Use of 200 Channels Outside the Designated Filing Areas in the 896-901 MHz and 935-940 MHz Band Allocated to the Specialized Mobile Radio Pool*, Third Report and Order, 9 FCC Rcd 7988, at ¶ 251 (1994).

¹⁵ Thus, a broadband small business can attract an investor of up to 40 percent without limiting that investor's outside investment activities, while an investor in a similarly situated small business NPCS licensee is limited to a mere 5 percent investment before its outside activities in the CMRS industry are restricted.

This creates real hardship for NPCS licensees. Small business NPCS licensees such as Benbow are competing for funding in the same capital markets as small business broadband licensees. This is especially true as more spectrum blocks are being released for commercial mobile use and traditional financing resources are otherwise being diverted. Moreover, these entities are not only competing for equity capital, they are also competing for customers. Placing more stringent limits on an NPCS licensee's ability to attract investors without impacting those investors' outside interests is therefore inconsistent with the Commission's policy of establishing regulatory parity among like services. It is also anticompetitive and undermines the opportunities for small businesses to participate in the NPCS industry.

It remains unclear why the Commission is subjecting NPCS licensees to more stringent attribution criteria than those adopted for broadband licensees. Consequently, Benbow urges the Commission to modify Section 24.101(a) and make the NPCS attribution criteria consistent with those set forth in Section 20.6(d).

V. THE COMMISSION SHOULD MODIFY ITS ELIGIBILITY RESTRICTIONS BUT SHOULD RETAIN EXISTING USE RESTRICTIONS APPLICABLE TO PAGING RESPONSE CHANNELS

Currently, response channels can only be used in paired communications with existing paging channels to provide mobile-to-base station communications.¹⁶ Further, any paging licensee authorized under Parts 22 or 90 of the Commission's rules can apply for a response channel in an MTA or BTA, so long as the licensee's paging system serves some portion of the MTA or BTA on the date the NPCS application is filed. In the

¹⁶ 47 C.F.R. § 24.130(a).

Further Notice, however, the Commission questions whether it should continue restricting how response channels can be used, and whether it should remove all eligibility restrictions on applying for paging MTA response channels and on any paging response channels it redesignates as regional licenses.

Benbow agrees that the current response-channel eligibility restrictions unnecessarily preclude other narrowband service providers from using these response channels, and so this eligibility restriction must be modified. Traditional, one-way paging licensees and non-nationwide NPCS licensees desperately need additional, interference-free response spectrum to be able to compete effectively with other two-way licensees, including NPCS licensees that won multiple channels during the nationwide auction. Benbow therefore urges the Commission to slightly modify the eligibility restrictions on response channels. Specifically, the Commission should amend its rules to allow any narrowband licensee, as well as conventional paging carriers, to apply for and obtain response channels, as long as the applicant has the necessary geographic relationship to the licensed service area for which it is seeking the response channel(s).

Modifying the eligibility restrictions to make these channels accessible to non-narrowband service providers, however, could jeopardize the competitive viability of both incumbent paging licensees as well as NPCS licensees. These response channels remain critical elements in the ability of narrowband messaging service providers to become full CMRS competitors. Therefore, the proposal to allow non-narrowband service providers to apply for these channels must be rejected.

Similarly, Benbow opposes any change to the current use restrictions. Allowing response channels to be used for transmitting will cause a proliferation of unacceptable, harmful interference, thereby rendering these channels useless as response channels. Furthermore, there is nothing in the record to date to suggest that the current use restrictions are creating inefficiencies or underutilization. Therefore, no changes are warranted.

VI. A SUBSTANTIAL SERVICE ALTERNATIVE IS CONTRARY TO SECTION 309(J) OF THE COMMUNICATIONS ACT AND WILL ENCOURAGE SPECULATION

In the *Further Notice*, the Commission is proposing to “conform” its NPCS rules to the rules recently adopted for conventional paging by allowing NPCS licensees to meet their performance requirements through a demonstration of substantial service as an alternative to meeting the coverage requirements provided under existing rules.¹⁷

Benbow strongly opposes such a change.

This proposal is at odds with the Commission’s Section 309(j) mandate to adopt safeguards, such as performance requirements, to preclude spectrum warehousing and encourage the rapid deployment of service. The Commission has itself acknowledged that these objectives can best be satisfied through build-out requirements, and in fact, adopted the current NPCS coverage requirements in light of this mandate. There is no basis for adopting a lesser standard at this stage of the industry’s development.

Benbow appreciates the Commission’s interest in adopting conforming coverage requirements for similar services, such as NPCS and paging. However, the substantial

¹⁷ *Further Notice* at ¶ 44. See Section 24.103 of the rules for existing coverage requirements.

service alternative adopted for paging has been challenged by several parties that believe it encourages spectrum warehousing and speculation.¹⁸ The threat to the NPCPS industry is even more substantial. Unlike the paging industry, which has a mature competitive market that will generally discourage warehousing, a substantial service option in the NPCPS context will clearly sacrifice the public's interest in encouraging rapid service deployment, because there is no immediate need to develop the spectrum to meet the demands of a competitive marketplace. Benbow therefore opposes adoption of a substantial service alternative for NPCPS.

VII. THE NPCPS COVERAGE BENCHMARKS SHOULD BE MODIFIED TO AFFORD NPCPS LICENSEES NECESSARY FLEXIBILITY

Benbow, however, does believe that more rational construction benchmarks which better reflect the delays in equipment and service deployment that are inherent in any emerging technology are needed for NPCPS. When the current five and ten year benchmarks were initially adopted in 1993, there was great hope and optimism for the rapid development of advanced messaging services to compliment and enhance conventional paging systems. More than two dozen proposals were advanced for which Pioneers Preferences were requested, demonstrating the interest in this emerging area. In

¹⁸ See Paging Network, Inc. Petition for Reconsideration of *Revision of Part 22 and Part 90 of the Commission's Rules to Facilitate Future Development of Paging Systems, Implementation of Section 309(j) of the Communications Act — Competitive Bidding, Second Report and Order*, filed Apr. 11, 1997, at 8. See also *Metamora Tel. Co. v. FCC*, No. 97-1107 (D.C. Cir. filed Feb. 26, 1997); *Benkelman Tel. Co. v. FCC*, No. 97-1245 (D.C. Cir. filed Apr. 9, 1997); *Metamora Tel. Co. v. FCC*, No. 97-1294 (D.C. Cir. filed Apr. 29, 1997).

order to avoid speculation, a five year construction and coverage benchmark seemed challenging, but attainable, at the time.

The realities of the development cycle have proven far more severe. Long development leads have prevented NPCS licensees from selecting a particular technology, and the actual construction of new systems has been severely delayed.¹⁹ It is not expected that this situation will change in the foreseeable future. The experience in taking NPCS drawing board concepts into the development lab and then onto the manufacturing floor has clearly demonstrated that a five year benchmark is unrealistic and unnecessary to spur licensees to develop their spectrum. Therefore, the Commission should amend Section 24.103 of its rules to eliminate the five year benchmark and allow nationwide, regional and MTA NPCS licensees to meet a 37.5 percent population coverage benchmark by year ten of the license term. This modified standard should be applicable to both new and existing licensees

¹⁹ Only three two-way paging and messaging protocol options are currently available for NPCS licensees, Motorola's InFLEXion, ReFLEX 50 and ReFLEX 25. Of these three options, InFLEXion, is impractical for most NPCS licensees because it requires the installation of a new cellular design infrastructure, as opposed to the traditional simulcast design used with the ReFLEX protocols. Also, InFLEXion is limited to primarily voice applications and many NPCS licensees appear to be interested in providing data. In this regard, ReFLEX 50 is useful but is proprietary to SkyTel. Thus, ReFLEX 25 remains as the only truly viable protocol; however, it is still in the testing phases, with equipment not expected until early 1998, at the earliest.

VIII. SMALL BUSINESSES SHOULD RECEIVE INSTALLMENT PAYMENTS AND BIDDING CREDITS

The Commission has asked for comment on a number of aspects of the competitive bidding process for the remaining NPCS channels. Having participated in the only NPCS auction in which small businesses were able to compete successfully for licenses, Benbow feels uniquely qualified to comment on these issues. One matter in particular is of most significance to Benbow — availability of bidding credits and installment financing.

The importance of bidding credits and installment financing to Benbow and those other designated entities that were successful in the regional NPCS auction cannot be overstated. But for the Commission's financial enhancements, Benbow would not today be a NPCS licensee. The Commission has proposed in the *Further Notice* to extend both bidding credits and installment payments to small businesses. Benbow strongly supports this proposal.

The Commission has suggested a two-tiered approach to implementing the installment payment plans.²⁰ Small businesses with gross revenues not exceeding \$40 million would be allowed to make interest-only installment payments for the first two years of the license term at the Treasury note rate, plus 2.5 percent; small businesses with gross revenues not exceeding \$15 million would be permitted to make interest-only installment payments for the first two years of the license term at the Treasury note rate,

²⁰ *Further Notice* at ¶ 64.

plus 1.5 percent.²¹ A two-tiered approach is appropriate because as the size of a business decreases, so does its ability to obtain financing. Enhanced bidding credits and installment payments, depending on the size of a business, address the inherent inequities companies like Benbow face when competing with larger companies.

In Benbow's view, however, the Commission's proposals with regard to installment payments do not go far enough. Specifically, very small businesses with gross revenues that do not exceed \$15 million should be granted an interest rate at the Treasury rate when the licenses are granted, with no additional percentage points. This spread between the cost of funds to a very small business purchasing NPCS licenses and the cost of funds likely available to other bidders is needed to make "very small" businesses reasonably competitive with the larger, better financed entrepreneurs that are also eligible for the channels. Benbow notes that this is the same rate of funds that enabled Benbow and two other small businesses to acquire 10 of the regional channels in the regional NPCS auction.

Such a change is warranted in light of the current conditions of the capital market. While it has always been difficult for small businesses to secure sources of financing, the problem has been exacerbated as traditional and even high-yield/high interest funding sources have become increasingly hesitant to invest as more blocks of spectrum have been made available for commercial use. A modified interest rate would at least provide some additional relief to small businesses seeking outside funding.

²¹ *Id.* at ¶ 80.

IX. CONCLUSION

Benbow respectfully requests that the Commission adopt the proposals set forth herein, all of which are made in furtherance not only of creating opportunities for small businesses, but also to facilitate robust competition in the provision of advanced messaging services.

Respectfully submitted,

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